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DOC #: \_\_\_\_\_  
DATE FILED: 1/17/08

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BASIL FITZPATRICK, SOLE PROPRIETOR, d/b/a  
ARTEMIS RECORDS

Plaintiff,

- against -

SONY-BMG MUSIC ENTERTAINMENT, INC., RED  
DISTRIBUTION, INC., SHERIDAN SQUARE  
ENTERTAINMENT, INC., d/b/a ARTEMIS RECORDS,  
DANNY GOLDBERG, SHERIDAN SQUARE  
ENTERTAINMENT, LLC d/b/a ARTEMIS RECORDS,

Defendants,

X  
07 Civ. 2933 (SAS)

~~PROPOSED~~  
**SCHEDULING ORDER**

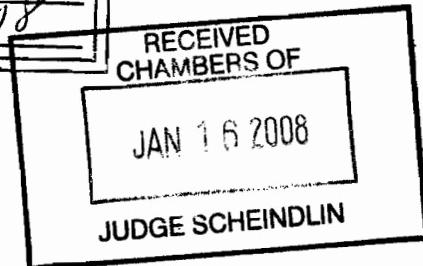
WHEREAS, the Court issued an Order for a Conference in accordance with Fed. R.Civ. P. 16(b) on \_\_\_\_\_ (the "Order"); and

WHEREAS, the Order requires that the parties jointly prepare and sign a proposed scheduling order containing certain information;

NOW, THEREFORE, the parties hereby submit the following information as required by the Order:

- (1) The conference is set for January 16, 2008 at 2:30 p.m.; appearances are: Steven B. Lehat for Plaintiff; Steven K. Meier and Tinamarie Franzoni for Defendants.
- (2) Plaintiff asserts that Defendants failed to perform a settlement they signed with Plaintiff; that Defendants failure excuses Plaintiff from being bound by said settlement, and that Defendants have infringed Plaintiff's trademark.

Defendants assert that defendants have not infringed plaintiff's trademark; that by plaintiff's conduct and knowledge, he has waived any claims and/or rights to collect from defendants; that plaintiff's ability to recover against defendants is precluded and/or limited by his own culpable conduct; breach of agreement by Plaintiff; that Plaintiff's remedies, if any, are limited by the Sheridan Lawsuit



Settlement Agreement; Plaintiff's claims are barred by the applicable statute(s) of limitations;

- (3) The parties submit the following scheduling order:

(a) Plaintiff intends to depose Dauny Goldberg; the 30(b)(6) witness of Sheridan Square Acquisition, Inc.; the 30(b)(6) witness of Sheridan Square Entertainment, Inc.; the 30(b)(6) witness of Sheridan Square Entertainment, LLC; a corporate representative witness of Sony through its domestic subsidiary Red Distribution; a corporate representative witness of Sony International and a corporate representative witness of Bernard National Loan Investors, Ltd..

Defendant intends to depose Basil Fitzpatrick; Accountant of Plaintiff; Katherine Fitzpatrick; Faye Fitzpatrick; Michael Olsen; Adrian White;

*where) / doc.*  
2/1/08 (Negril  
*1/10/08 (Negril)*

(b) Initial discovery under Rule 26 of the FRCP shall be completed on or before February 12, 2008; the last date to add additional parties shall be May 23, 2008; the last date to amend pleadings shall be May 23, 2008.

(c) Expert reports will be supplied by December 18, 2008; expert depositions to be completed by January 20, 2008.

(d) Fact discovery is to be completed prior to *June 30*, 2008.

(e) The date by which Plaintiff will supply its pre-trial order matters to Defendant is *February 5, 2009*.

(f) The date by which the parties will submit a pre-trial order in a form conforming with the Court's instructions together with trial briefs and either (1) proposed findings of fact and conclusions of law for a non-jury trial, or (2) proposed voir dire questions and proposed jury instructions, for a jury trial is *February 16, 2009*.

(g) The date of the pre-trial conference shall be:

*July 10 at 4:30*

*hold*

- (4) All discovery shall be per code.
- (5) The parties have no known discovery disputes at this time.
- (6) Plaintiff will introduce expert testimony concerning
  - (a) damages, (b) custom and practice in the trade, (c) marketing.

Defendant will introduce expert testimony concerning:

- (a) damages, (b) custom and practice in the trade, (c) marketing, and (d) any other items raised by plaintiff's witness(s)

- I. The anticipated length of trial is six (6) day jury. Jury Trial is demanded.
- II. The Scheduling Order may be altered or amended only on a showing of good cause not foreseeable at the time of the conferences when justice so requires;
- III. The names; addresses, phone numbers and signatures of counsel are as follows:

For Plaintiff: Steven B. Lehat  
895 Dove Street, Third Floor  
Newport Beach, California 92660  
Tel: (949) 786-6461

By: Steven B. Lehat (ss)  
Steven B. Lehat, Esq. (CA 92798)

For Plaintiff: John Smargiassi, Esq. (JS 3041)  
JOSEPH & SMARGIASSI  
Rector Street, 21<sup>st</sup> Floor  
New York, NY 1006  
Tel: (212) 625-9949  
Fax: (212) 625-9193

By: John Smargiassi, Esq. (JS 3041)

For Defendant:

Steven K. Meier (SKM 1609)  
Tinamarie Franzoni(TF0713)  
MEIER, FRANZINO & SCHER, LLP  
Attorneys for Defendants  
Sheridan Square Entertainment, Inc.,  
Sheridan Square Entertainment, LLC.  
And Daniel Goldberg  
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New York, New York 10022  
Tel: (212) 759-9770  
Fax: (212) 644-2298

By: \_\_\_\_\_

\_\_\_\_\_  
Steven K. Meier  
Tinamarie Franzoni

SO ORDERED:

  
The Honorable Shira A. Scheindlin  
U.S. District Court Judge

1/16/08